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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,417	07/11/2003	Steven J. Zumbusch	01-HSP-139	7066

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EXAMINER	
LAZO, THOMAS E	

ART UNIT	PAPER NUMBER
3745	

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/618,417	ZUMBUSCH, STEVEN J.	
	Examiner	Art Unit	
	Thomas E. Lazo	3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-6 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-4 and 6 is/are rejected.

7)☒ Claim(s) 5 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 06 May 2004 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant's amendment filed 4/25/06 is acknowledged.

The applicant has overcome the objection to the abstract by amending the abstract. The objection to the abstract is withdrawn.

The applicant has overcome the rejection to claim 5 under 35 USC 112, first paragraph by demonstration of known relief valve assemblies. The rejection of claim 5 under 35 USC 112, first paragraph is withdrawn.

The applicant has overcome the objections to claims 2 and 4 by amending claims 2 and 4. The objections to claims 2 and 4 are withdrawn.

Response to Arguments

Applicant's arguments filed 4/25/06 have been fully considered but they are not persuasive. Applicant argues that Geringer's load sensing control does not constitute a pressure override valve means and that the pressure override valve means is only associated with the first pump.

The examiner respectfully disagrees. The load sensing control 40 of Geringer constitutes the pressure override valve means because it is operable in response to a fluid pressure at the fluid outlet port in excess of a pressure override setting by the spring 58, to communicate pressurized fluid to the first fluid pressure responsive means 30, in a manner tending to decrease the displacement of the first pump 12 without effecting the displacement of the second pump 14,

until the fluid pressure is substantially equal to the pressure override setting as claimed. Also, by limiting the flowrate output from the pump, the load sensing control 40 of Geringer is limiting the pressure in the supply line coming out of the pump (pump output pressure).

Regarding the pressure override valve means being only associated with the first pump, Geringer discloses each pressure override valve means 40 being only associated with each respective pump. Therefore the pressure override valve means 40 of the first pump is only associated with the first pump.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Geringer (6,109,030). Geringer discloses a tandem pump assembly with a housing defining a fluid inlet port and a fluid outlet port 20, a first pump 12 disposed in the housing and driven by an input shaft 26, the first pump12 including a variable displacement, over-center pump, including first fluid pressure responsive means 30 for varying the displacement of the first pump in response to the porting of a control pressure, the first pump 12 having an inlet in fluid communication with the fluid inlet port, and an outlet in fluid communication with the fluid outlet port 20, a second pump 14 disposed in the housing and driven by the input shaft 26, the second pump 14 having an inlet in fluid communication with the fluid inlet port, and an outlet in fluid communication with

the fluid outlet port 20, wherein a pressure override valve means 40 is associated with only the first pump 12, and operable, in response to a fluid pressure at the fluid outlet port 20 in excess of a pressure override setting (spring 58), to communicate pressurized fluid to the first fluid pressure responsive means 30, in a manner tending to decrease the displacement of the first pump 12 without effecting the displacement of the second pump 14, until the fluid pressure is substantially equal to the pressure override setting, the first pump 12 includes an axial piston pump 12 having a tiltable swashplate 28, and the first fluid pressure responsive means 30 is operable to vary the tilt angle of the swashplate 28 in response to variations in the control pressure, the first fluid pressure responsive means 30 comprising a servo control cylinder including a piston 32 biased by the control pressure 38 toward a position corresponding to increased displacement of the first pump 12, the pressure override valve means includes one internal pressure override valve 40 having its inlet in fluid communication with the outlet of the first pump 12, the internal pressure override valve 40 has its outlet 37 in fluid communication with the servo control cylinder 30 to communicate the pressurized fluid thereto to bias the piston 32 in a direction opposite the direction in which the piston is biased by the control pressure 38, and the second pump 14 includes a variable displacement pump including second fluid pressure responsive means 30A for varying the displacement of the second pump 14 in response to the porting of the control pressure.

Allowable Subject Matter

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consists of four patents.

Ishizaki et al., Schneiderjan et al., Virtue et al., and Louis et al. are cited to show tandem pump assemblies.

Contact Information

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thomas Lazo whose telephone number is (571) 272-4818. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Edward Look, can be reached on (571) 272-4820. The fax phone number for this Group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas E. Lazo
Primary Examiner
Art Unit 3745
June 1, 2006